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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/053,571	01/24/2002	Michael Maguire	P 0290479 DKT. 12NP	3445
909	7590	09/08/2004	EXAMINER	
PILLSBURY WINTHROP, LLP			RUDDOCK, ULA CORINNA	
P.O. BOX 10500			ART UNIT	
MCLEAN, VA 22102			PAPER NUMBER	

1771

DATE MAILED: 09/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/053,571	MAGUIRE, MICHAEL	
	<b>Examiner</b>	<b>Art Unit</b>	
	Ula C Ruddock	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on RCE filed 8/13/04.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☐ Claim(s) 25 and 29-38 is/are pending in the application.
- 4a) Of the above claim(s) 30,35 and 38 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 25,29,31-34,36 and 37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                            | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

### **DETAILED ACTION**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17 (e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17 (e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 13, 2004, has been entered.
2. Applicant's amendment and accompanying remarks filed August 13, 2004, have been considered. The rejections in view of Koehler (US 4,613,369) and Webb et al. (US 5,373,615) have been overcome. However, the rejection in view of Sicard (US 3,674,154) has been maintained. Furthermore, an additional patentability search has been done and new prior art has been found.

### ***Election/Restriction***

3. Newly submitted claims 30, 35, and 38 directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: in the office action mailed July 8, 2003, an election of species was sent out. There were two species: Specie I, drawn to a metal woven mesh, and Specie 2, drawn to a synthetic woven mesh. Therefore, because Applicant elected Specie I, the newly added claims that are drawn to synthetic filaments are considered independent or distinct from the invention originally claimed.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the

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merits. Accordingly, claims 30, 35, and 38 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 33, 34, 36, and 37 are rejected under 35 U.S.C. 102(b) as being anticipated by Sicard (US 3,674,154). Sicard discloses a filtration apparatus. The filtering member comprises a woven wire mesh (i.e. a metal mesh) wherein the layers are bonded together by brazing or sintering or welding (col 1, ln 55-65). It should be noted that a screen inherently has a first plurality of filaments extending in a first direction and a second plurality of filaments extending in a second direction. Furthermore, because Sicard discloses a second mesh layer (col 1, ln 60-63) or an "outer layer," the Examiner is equating the outer perforated metal layer to the first and second reinforcing structure of the present invention.

6. Claims 25, 29, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by Mutzenberg et al. (US 4,250,172). Mutzenberg et al. disclose fibrous mat structure having filtration functions (col 2, ln 65-68). The fibrous mat comprises layers of textile fibers, part of which are unwoven (col 2, ln 25-26). There is a mechanical interlocking or intertwinement of the fibers from the various layers which constitutes a mechanical link between all layers which result in a mechanically stable mat. The fibers comprise metallic fibers (col 2, ln 59-63). It is possible to add to one or more of the layers, a layer of a woven fabric or "scrim" which yields a higher tear strength than if all nonwovens are used (col 2, ln 49-56). Therefore, it is the Examiner's position that because Mutzenberg discloses adding one or more layers of scrim material, this anticipates Applicant's disclosure of a woven screen having woven reinforcing filaments. Furthermore, it should be noted that the Examiner is equating Mutzenberg's disclosure of intertwinement of the fibers of the various layers to Applicant's disclosure of the reinforcing filaments being woven with the woven first and second plurality of filaments.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Mutzenberg et al. (US 4,250,172), as shown above, in view of Sicard (US 3,674,154). Mutzenberg et al. disclose the

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claimed invention except for the teaching that the first and second reinforcing filaments are metal wires of a heavier gauge than the metal wires of the first and second plurality of filaments.

Sicard discloses filtration apparatus that comprises an inner screen made of a woven wire mesh (i.e. a metal mesh) (col 1, ln 55-59). Sicard also discloses a supporting outer layer of coarser and stronger perforated metal (col 1, ln 60-63). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have used Sicard's teaching of a screen comprising coarser and stronger metal (i.e. heavier gauge) on the fibrous mat of Mutzenberg et al., motivated by the desire to create a fibrous filtration mat that is mechanically strong.

### ***Response to Arguments***

9. Applicant's arguments with respect to claim 25 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ula C Ruddock whose telephone number is 571-272-1481. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel H. Morris can be reached on 571-272-1478. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*UCR*  
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